IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 22487 of 2007(B)

PETITIONER:

STAR ENCLAVE OWNERS ASSOCIATION, VATTEKKUNAM KARA, TRIKKAKARA NORTH VILLAGE, EDAPALLY, ERNAKULAM DISTRICT, REPRESENTED BY ITS PRESIDENT SRI.PRAKASH.C.CHANDY.

BY ADV. SRI.R.LAKSHMI NARAYAN

RESPONDENTS:

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1. THE DISTRICT COLLECTOR, COLLECTORATE, KAKKANAD, ERNAKULAM DISTRICT.

2. THE KALAMASSERY MUNCIPALITY, KALAMASSERY REPRESENTED BY ITS SECRETARY.

3. THE TALUK SURVEYOR, KANAYANNUR TALUK ERNAKULAM.

R1 BY SR. GOVERNMENT PLEADER (SHRI K. J. MOHAMMED ANZAR)

R2 BY ADV. SRI.M.K.ABOOBACKER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 22487 OF 2007 B

Dated this the 27th July, 2007

JUDGMENT

Petitioner is a residents Association. They challenge Ext.P4 notice issued by the respondent Municipality. They also seek a direction to supply all relevant details and particulars specifying the extent, lie and nature of the alleged encroachment done by the petitioner and referred to in Ext.P4 and further direct the second respondent not to initiate any steps for eviction pursuant to Ext.P4 without convincing and satisfying the petitioner about the encroachment, its extent, lie and nature. They further seeks a direction to the second respondent to refrain from any action pursuant to Ext.P4 without affording reasonable opportunity to the petitioner to substantiate their contention about the alleged encroachment and refrain from taking any action without exhausting the statutory remedies available to the petitioner for redressal of their grievances with regard to the alleged encroachment. I heard the learned counsel

appearing for the respondent Municipality. He points out that Ext.P4 is a show cause notice calling upon the petitioner to produce documents. A perusal of Ext.P4 would also show that it is only a notice calling upon the petitioner to produce certain documents and to prove their title, failing which action will be taken for eviction. In such circumstances, the Writ Petition is disposed of directing the second respondent to take a decision in accordance with law after considering Ext.P5, the records produced by petitioner and also after affording an opportunity of hearing to the petitioner. Till such time as a decision is taken as aforesaid, naturally petitioner cannot be evicted.

K. M. JOSEPH, JUDGE

kbk.